

TOWN OF DAVIE

TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Mark Kutney, AICP/ (954) 797-1101
Prepared By: David M. Abramson, Planner I

SUBJECT: Quasi Judicial Hearing: Variance
V 8-1-03, The Heritage Building, 5220 Davie Road, Florida / generally located on the eastside of Davie Road approximately 1,500 feet north Stirling Road.

TITLE OF AGENDA ITEM: V 8-1-03, The Heritage Building

REPORT IN BRIEF:

The applicant had previously submitted a site plan for the Heritage Building and was approved by Town Council on September 20, 2000. In addition to the Heritage Building site plan request was a variance request, which was processed concurrently with the site plan and was also approved on September 20, 2000 by Town Council. The applicant did not begin the building permit process in the required one year following approval of Town Council. As a result, both the applicant's site plan and variance request expired. Therefore, the applicant has resubmitted both the site plan and variance request for approval to construct the proposed Heritage Building.

The applicant requests a variance **FROM:** Section 12-83 of the Land Development Code which requires a minimum twenty (20) foot side setback from the property line. **TO:** Reduce the minimum to a ten (10) foot side setback from the property line. **FROM:** Section 12-113 (1) (b) of the Land Development Code which requires a minimum ten (10) feet perimeter landscape buffer in the RO District. **TO:** Reduce the minimum to four (4) feet and one (1) foot along portions of southern property line and reduce the minimum to five (5) feet along the northern property line for proposed on-site parking.

PREVIOUS ACTIONS: None

CONCURRENCES:

At the September 24, 2003 Planning and Zoning Board meeting:

Variance One: Ms. Lee made a motion, seconded by Vice-Chair Turin, to approve. Motion carried 5-0

Variance Two: Ms. Lee made a motion, seconded by Mr. Stevens, to approve with no stipulations. Motion carried 5-0

FISCAL IMPACT: None

RECOMMENDATION(S): Staff finds the subject application complete and suitable for transmittal to Town Council and the Planning and Zoning Board for further consideration. In addition, the following conditions shall be met prior to variance approval:

1. The applicant shall provide a letter from FPL stating there are no objections with encroaching into the 5' utility easement for parking.
2. The applicant shall provide a letter from the homeowner to the north and Aucamp's Nursey to the south of the subject site, stating they have no objections to the reduction landscape buffer size.

Attachment(s): Planning Report, Justification letter, Land use map, Subject site map, Aerial

**TOWN OF DAVIE
Development Services Department
Planning and Zoning Division Staff
Report and Recommendation**

Applicant Information

Owner / Petitioner:

Name: Christina Rodriguez
Address: 2109 Nova Village Drive
City: Davie, Florida
Phone: (954) 797-5060
Fax: (954) 338-0039

Background Information

Date of Notification: August 27, 2003 **Number of Notifications:** 51 at 1,000 feet

Application History: This item was automatically tabled at the September 10, 2003 Planning and Zoning Board meeting due to lack of a quorum.

Application Request: Variance

The applicant requests a variance **FROM:** Section 12-83 of the Land Development Code which requires a minimum twenty (20) foot side setback from the property line. **TO:** Reduce the minimum to a ten (10) foot side setback from the property line. **FROM:** Section 12-113 (1) (b) of the Land Development Code which requires a minimum ten (10) feet perimeter landscape buffer in the RO District. **TO:** Reduce the minimum to four (4) feet and one (1) foot along portions of southern property line and reduce the minimum to five (5) feet along the northern property line for proposed on-site parking.

Address / Location: 5220 Davie Road, Florida / generally located on the eastside of Davie Road approximately 1,500 feet north Stirling Road.

Future Land Use Plan Designation:

The existing land use designation is residential 5 dwelling units per acre on the Town of Davie Future Land Use Plan Map and residential 5 dwelling units per acre on the Broward County Land Use Plan Map.

Zoning: RO, Residential Office District

Existing / Proposed Use: The subject site is undeveloped/One-Story, 3,500 sq. ft. office building on lot 1.

Parcel Size: Subject Parcel (Lot 1) - 1 acre (35,000 sq. ft.)
Vacant Parcel (Lot2) - .74 acre (26,106 sq. ft.)

Surrounding Land

	<u>Surrounding Uses:</u>	<u>Use Plan Designation:</u>
North:	Residential and Vacant	Residential (5 DU/AC)
South:	Vacant (FPL power line easement)	Residential (5 DU/AC)
East:	Special residential facility (Victoria Villas)	Residential (1 DU/AC)
West:	Batten's Farms across Davie Road	Residential (5 DU/AC)

	<u>Surrounding Zoning:</u>
North:	RO & A-1, Residential Office and Agricultural Districts
South:	A-1, Agricultural District
East:	CF, Community Facility District
West:	A-1, Agricultural District

Zoning History

Related Zoning History: This parcel was rezoned by Ordinance No. 97-52, approved by Town Council on September 3, 1997. The parcel was rezoned from Agricultural (A-1) to Residential/Office (RO). The Town applied commercial flexibility, as provided for by Article 2.5 of the Administrative Rules Document of the Broward County Land Use Plan, to allow for office use in conjunction with residential uses on the Heritage Building plat.

Previous Request on same property:

A Plat Request: (P 9-1-98) Town Council approved the Heritage Building plat on August 4, 1999 by Resolution R-99-254. The plat was recorded in Plat Book 169, Pages 69-70 of the Broward County Records Division.

A Delegation Request: (DG 4-4-00) to amend the non-vehicular access line on the Heritage Building plat was passed by Town Council by R-2000-117 on May 17, 2000.

A Site Plan Request: (SP 7-4-00) site plan for the Heritage Building was approved by Town Council on September 20, 2000.

A Variance Request: (V 7-1-00) On September 20, 2000, Town Council heard the matter of, a variance to **1)** reduce the required side setback within the RO (Residential/Office) District from 20 feet to 10 feet along the south property line, **2)** reduce the required perimeter landscape buffer from 10 feet to 1 foot along the south property line, and, **3)** reduce the required perimeter landscape buffer along the north property line from 10 feet to 5 feet. This petition was approved subject to the petitioner constructing the building as shown on the site plan.

A Delegation Request: (DG 3-4-03) to amend the restrictive note on the Heritage Building plat was passed by Town Council by R-2003-107 on April 15, 2003.

Application Details

The applicant had previously submitted a site plan for the Heritage Building and was approved by Town Council on September 20, 2000. In addition to the Heritage Building site plan request was a variance request, which was processed concurrently with the site plan and was also approved on September 20, 2000 by Town Council. The applicant did not begin the building permit process in the required one year following approval of Town Council. As a result, both the applicant's site plan and variance request expired. Therefore, the applicant has resubmitted both the site plan and variance request for approval to construct the proposed Heritage Building.

The applicant's property is made up of two lot areas. Lot 1 will accommodate a 3,500 sq. ft. office building, while lot 2 is designated for single-family residency. The applicant variance request applies to the proposed office building, landscape buffer and utility easement on lot 1.

The applicant states, due to the narrowness of the site, which is the minimum 100' required per the Land Development Code, the requested variance from 20' to 10' side setback is necessary to provide an office building which will accommodate the applicant's needs.

The applicant also notes, that during preparation of a site plan and after several different reconfigurations of the parking lot designs, the current proposed plan was the only feasible layout, which satisfied the Town Engineer while conforming to Broward County requirements. Due to the 100' width of the subject site, the requirements for the parking and circulation drive aisles had a significant effect on the width of the required 10' landscape buffers around the perimeter of the property. For that reason, the applicant is requesting a variance approval to allow the proposed building to encroach 10' into the required side setback and encroach into the 10' landscape buffer.

Currently, that existing 230-foot Florida Power Light (FPL) utility easement is abutting the subject site to the south. The applicant will provide a written verification from FPL stating that has no objections to construct within this 5' utility easement. The applicant will also provide a letter from Aucamp's Nursey stating they have no objections to the variances as requested.

The property abutting to the north is an existing single-family resident, which is located close to Davie Road. Also, abutting the majority of the property to the north is vacant land zoned A-1. The applicant will provide a letter of no objections from the single-family resident and the owner of the undeveloped property to the north.

Upon review, staff identified that the applicant can develop the site without the requested variances by redesigning the proposed plan with one-way drive aisles and angled parking spaces to meet the required spaces.

Applicable Codes and Ordinances

Section 12-83, which requires a 20-foot side setback within the RO, Residential Office District.

Section 12-107 (D) (3), which requires a 10-foot perimeter landscape buffer for commercial districts adjacent to residential properties.

Section 12-107 (D) (4), which requires a 10-foot perimeter landscape buffer for commercial districts adjacent to all other abutting properties.

Comprehensive Plan Considerations

Planning Area: The subject property falls within Planning Area 9. This Planning Area is south of Griffin Road, generally north of Stirling Road, east of SW 76 Avenue and west of the Florida Turnpike. This area is predominantly agricultural in nature with scattered low-density single-family residential development. Low profile commercial development lines the Griffin Road, Davie Road, and Stirling Road corridors.

Broward County Land Use Plan: The subject site falls within Flexibility Zone 102.

Broward County Land Development Code: The Broward County Land Development Code requires that any changes or waivers to requirements of development permit applications be reviewed and approved or disapproved by the municipality with final approval by Broward County Commission.

Applicable Goals, Objectives & Policies:

Policy 7-1: The Town shall endeavor to expand its economic base through expansion of the commercial sector of its economy.

Policy 7-3: Zoning regulations shall provide for varying intensities of commercial development and direct application of appropriate districts where compatible with adjacent and surrounding residential uses.

Policy 17-3: Each development proposal shall be reviewed with respect to its compatibility with adjacent existing and planned uses.

Staff Analysis

The subject property meets all lot dimension, area requirements, lot width, exceeds the minimum depth requirement, and can be designed to meet Code without the requested variances. Therefore, Planning and Zoning staff does not find that granting each of the requested variances necessary to afford the applicant reasonable use of the property, and that the variances requested are not the minimum variances necessary for reasonable use of the property.

Findings of Fact

Variances:

Section 12-309(B) (1):

The following findings of facts apply to the variance request:

- (a) There are no special circumstances and conditions applying to the land and building for which the variances are sought, which circumstances or conditions are peculiar to such land or building and do not apply generally to land or buildings in the same district; any circumstances or conditions are not such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of such land or building for which the variance is sought; the alleged hardships maybe self-created by any person having an interest in the property;

According to the petitioner, the minimum width of 100' as per code does provide sufficient space to construction a proposed office building on the subject site. The site plan as designed provides for a 65' linear foot building and 22' access drive. The width of theses two items, one required by code and the other design of the building are factors contributing to the various request. In addition, the location of the access point was a requirement of Broward County Traffic Engineers due to the proximity of other access points.

- (b) The granting of the variances are not necessary for the reasonable use of the land or building;

The applicant can achieve reasonable use of the land without a variance, and as such the variance is not the minimum needed. The size of the office building could be reduced, although the building as designed is in keeping with the intent of the RO, Residential Office zoning district.

- (c) Granting of the requested variances are in harmony with the general purpose and intent of this chapter, and will not injurious to the neighborhood or otherwise detrimental to the public welfare.

The intent of the Land Development Code is to allow an interpretation to be made where there is a just balance between the rights of the landowner and all others who will be affected by that person's proposal. Allowing the side building setback to be reduced from 20 feet to 10 feet, landscape buffer to be reduced from 10 feet to 5 feet along the north property line, 1 foot between parking stalls and 4 feet between compact parking stalls along the southern property line and will not be detrimental to the adjacent properties.

Staff Recommendation

Staff finds the subject application complete and suitable for transmittal to Town Council and the Planning and Zoning Board for further consideration. In addition, the following conditions shall be met prior to variance approval:

1. The applicant shall provide a letter from FPL stating there are no objections with encroaching into the 5' utility easement for parking.
2. The applicant shall provide a letter from the homeowner to the north and Aucamp's Nursey to the south of the subject site, stating they have no objections to the reduction landscape buffer size.

Planning and Zoning Board Recommendation

At the September 24, 2003 Planning and Zoning Board meeting:

Variance One: Ms. Lee made a motion, seconded by Vice-Chair Turin, to approve.
Motion carried 5-0

Variance Two: Ms. Lee made a motion, seconded by Mr. Stevens, to approve with no
stipulations. Motion carried 5-0

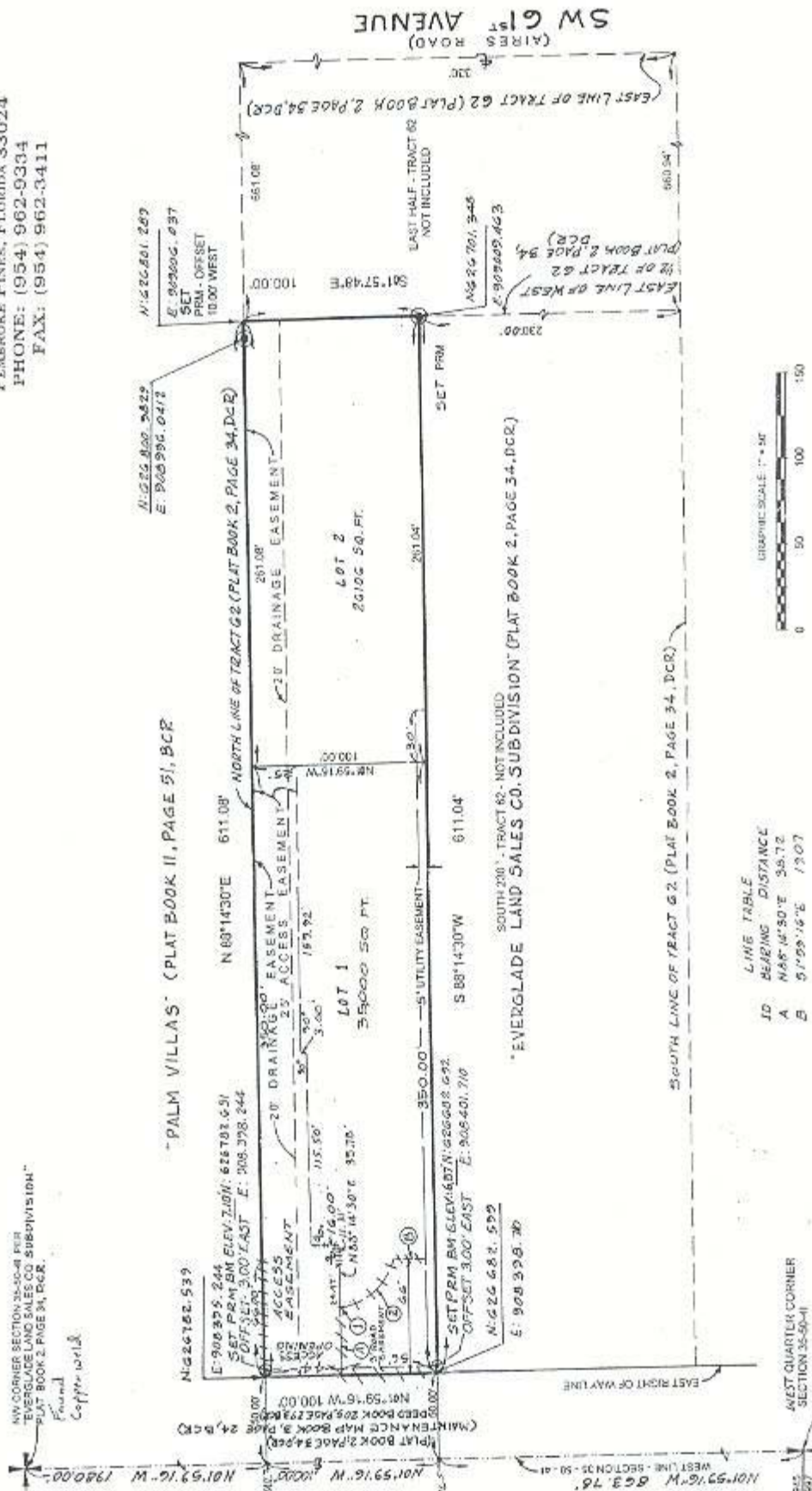
Exhibits

1. Justification
2. Survey
3. Land Use Map
4. Zoning and Aerial Map

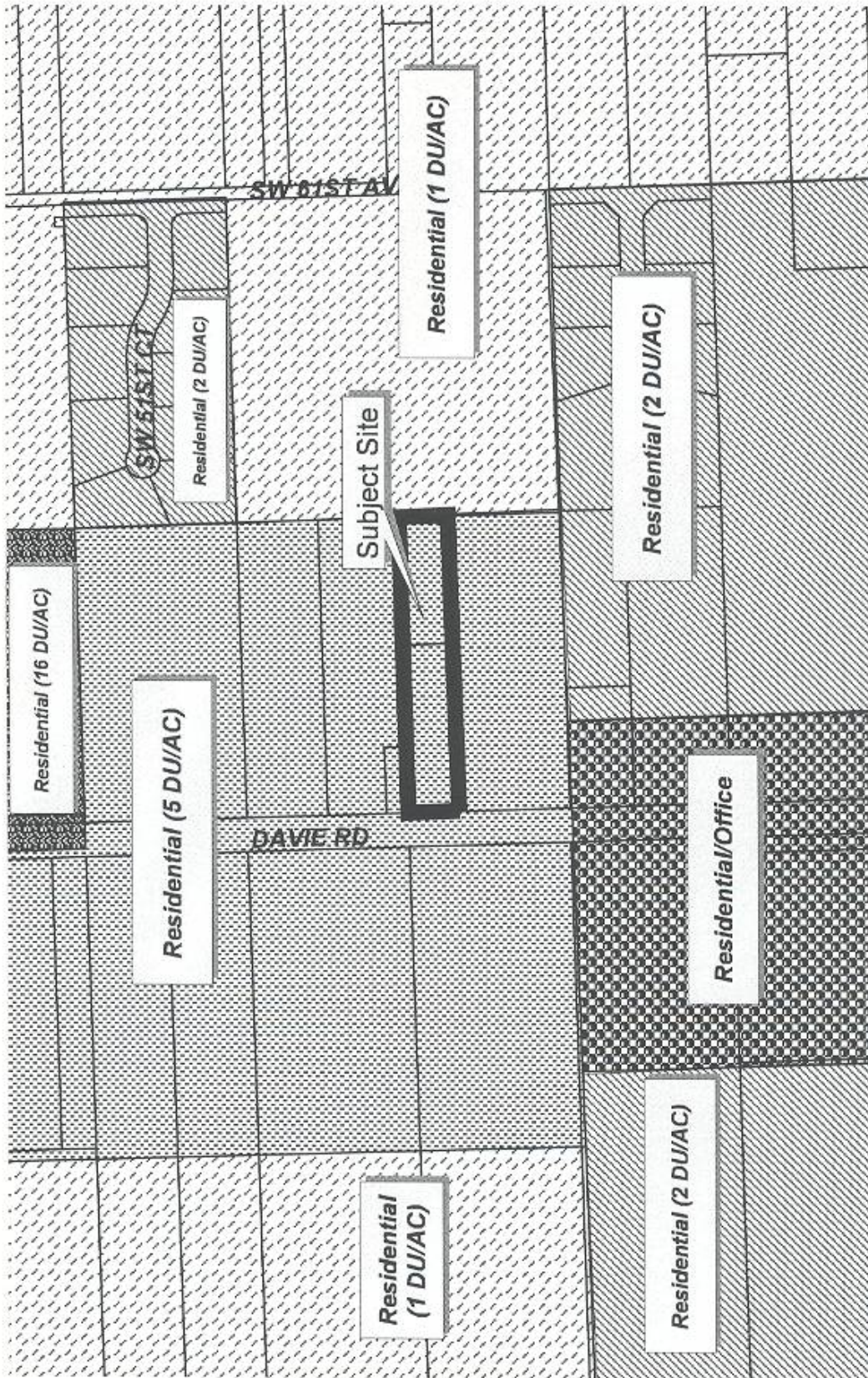
Prepared by: _____

Reviewed by: _____

7744 TAST STREET
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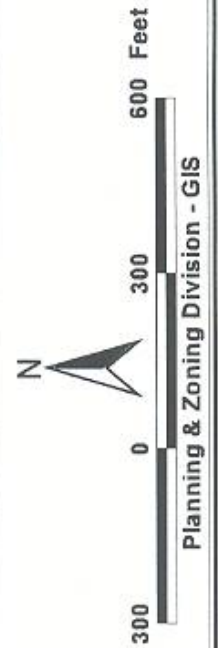


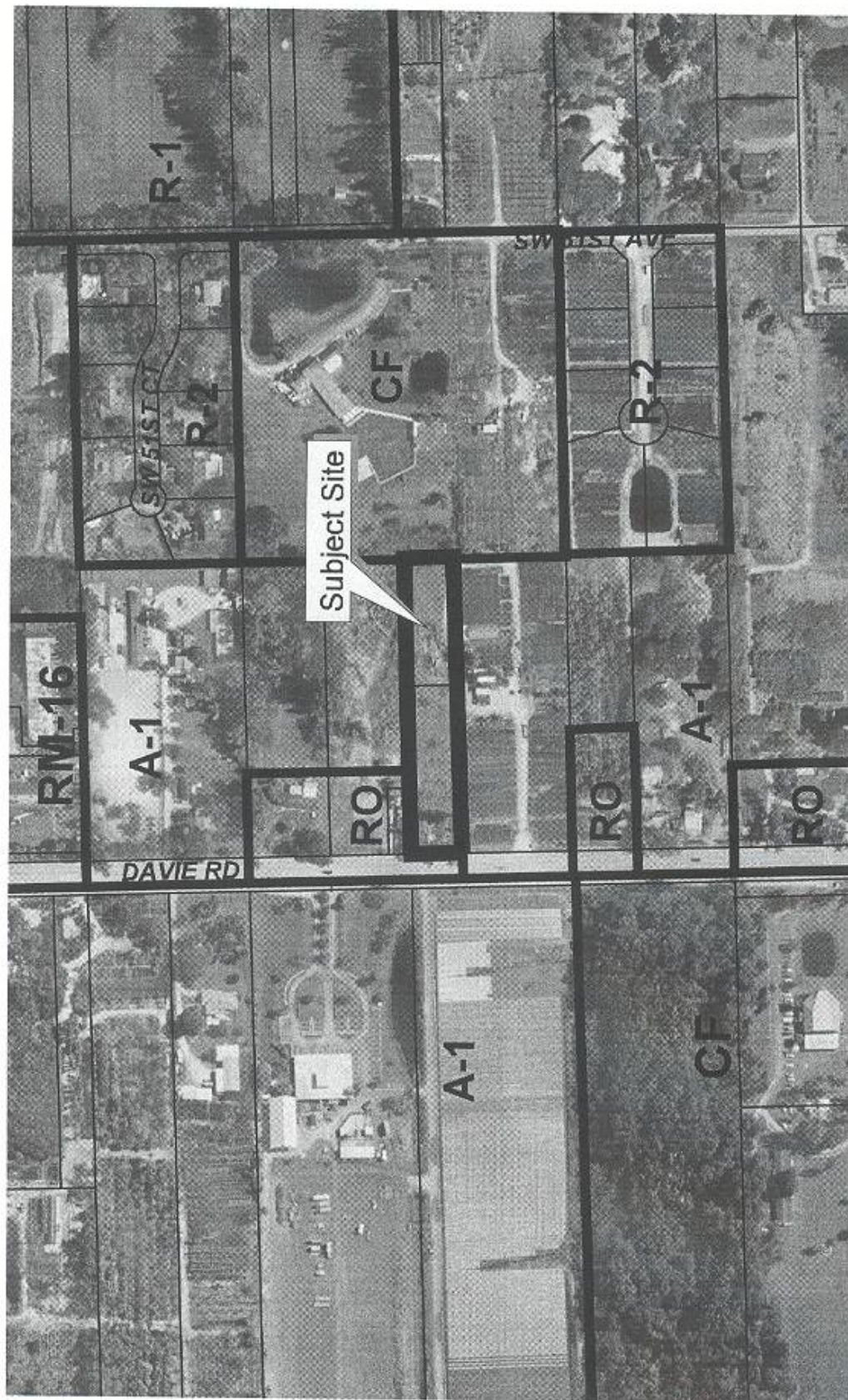
THE SCALE OF THIS DRAWING MAY HAVE BEEN CHANGED
BY REDUCTION OR ENLARGEMENT OF THE ORIGINAL



VARIANCE
V 8-1-03
Future Land Use Map

Date Prepared: 4/1/03
 Prepared By: TAV





Date Flown:
12/31/00



300 0 300 600 Feet

Planning & Zoning Division - GIS



VARIANCE V 8-1-03

Subject Site, Zoning and Aerial Map

Date Prepared: 4/1/03
Prepared By: TAV